

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
SHERMAN DIVISION**

**LE-VEL BRANDS, LLC,**

Plaintiff,

v.

**R & D GLOBAL, LLC D/B/A/ LurraLife;  
LURRA LIFE, LLC,**

Defendants.

CIVIL ACTION NO. 4:20-cv-420

COMPLAINT FOR TRADEMARK  
INFRINGEMENT AND UNFAIR  
COMPETITION

**DEMAND FOR JURY TRIAL**

**COMPLAINT**

Plaintiff Le-Vel Brands, LLC (“Le-Vel”) by its undersigned attorneys, alleges as follows, upon actual knowledge with respect to itself and its own acts, and upon information and belief as to all other matters.

**NATURE OF THE ACTION**

1. This is an action for trademark infringement and unfair competition under the Lanham Act, 15 U.S.C. § 1051, *et seq.* and common law. Le-Vel brings this action against Defendant R & D Global, LLC d/b/a LurraLife (“R & D Global”) and Defendant Lurra Life, LLC (“Lurra Life”) (collectively, “Defendants”) because Defendants are willfully and unlawfully selling supplements under the infringing mark THRIVE in violation of Le-Vel’s trademark rights in its THRIVE and other THRIVE-formative marks.

2. Defendants launched and continue to sell supplements under the identical and infringing name THRIVE notwithstanding Defendants’ intimate knowledge of Le-Vel and Le-Vel’s THRIVE and THRIVE-formative trademark rights. Defendants’ introduced their competing THRIVE supplement shortly after their founder, Dan Putnam, joined Le-Vel as one of

Le-Vel's brand promoters, both individually and under the name of Defendant R & D Global itself.

3. Defendants' use of THRIVE misappropriates the core of Le-Vel's branding and violates Le-Vel's trademark rights. Defendants' use of the identical mark THRIVE in connection with its supplements, activities, and promotions are likely to confuse, deceive, or mislead consumers into believing that Defendants' activities are authorized or affiliated with Le-Vel and/or that such supplements are offered, licensed, or approved by Le-Vel. Le-Vel seeks to enjoin Defendants' unlawful and bad faith use of THRIVE and recover actual damages, Defendants' profits, and other relief, including attorneys' fees and costs.

### **THE PARTIES**

4. Plaintiff Le-Vel Brands, LLC is a Texas limited liability company with its principal place of business at 9201 Warren Parkway #200, Frisco, TX 75035.

5. Defendant R & D Global, LLC is a Utah limited liability company with an address at 3075 Fairfield Road, Layton, Utah 84041. Defendant R & D Global, LLC can be served via its designated agent for service of process, Richard Theodore Putnam, at 1526 North Dixie Downs Road #1, St. George, Utah 84770.

6. Defendant Lurra Life, LLC is a Utah limited liability company with an address at 3075 Fairfield Road, Layton Utah 84041. Defendant Lurra Life, LLC can be served via its designated agent for service of process, Daniel Frank Putnam, at 2441 North 1675 East, Layton, Utah 84040.

### **JURISDICTION AND VENUE**

7. This action arises under the federal Trademark Act, 15 U.S.C. §§ 1051, *et seq.* and the related laws of the state of Texas. This Court has jurisdiction over the subject matter of this action pursuant to 15 U.S.C. § 1121 and 28 U.S.C. §§ 1331, 1338(a) and (b).

8. This Court has personal jurisdiction over Defendants, and venue is proper in this District pursuant to 28 U.S.C. § 1391(b) and (c), because Le-Vel is being harmed in this District and because Defendants are promoting, offering, and selling infringing goods into this District.

### **LE-VEL AND ITS THRIVE NAME AND TRADEMARK**

9. Le-Vel is a lifestyle company that offers dietary and nutritional supplements, related health and wellness goods, and related coaching/lifestyle/wellness programs, conventions, and educational materials. Le-Vel formulates its products with premium ingredients and high levels of nutrition, giving customers the opportunity to live healthy, balanced, and premium lifestyles.

10. Le-Vel's flagship product line is sold under the brand THRIVE and various THRIVE-formative marks, including THRIVE PLUS, THRIVE PREMIUM, THRIVE EXPERIENCE, RELEASE THE THRIVE, THRIVE PRO, THRIVE K, THRIVEFIT, and THRIVE BITES, among others (the "THRIVE Marks"). Le-Vel's THRIVE product line consists of a wide range of supplements for physical and mental wellness and healthy living, including supplements formulated specifically for men, women, and children; nutritional shakes, energy shakes, drink mixes, and gels; nootropics; transdermal supplement products; skincare products; and protein snacks:



11. Le-Vel first conceived of, adopted, and began using its distinctive THRIVE trademark in 2012 and has continuously used THRIVE in connection with dietary and nutritional supplements in commerce since 2012.

12. Since 2012, Le-Vel has continuously expanded its range of THRIVE Marks used in connection with dietary and nutritional supplements, related health and wellness products, and related coaching/lifestyle/wellness programs.

13. Prior to Defendants' first use of THRIVE, Le-Vel used, advertised, and promoted its THRIVE name and THRIVE Marks in such a manner that the common, distinctive THRIVE element in the THRIVE Marks is indelibly tied with Le-Vel's overall corporate identity, such that Le-Vel is commonly known as "THRIVE" in the marketplace and Le-Vel has developed a family of THRIVE marks.

14. Le-Vel owns numerous valid and subsisting U.S. trademark registrations and applications for its THRIVE Marks, some of which include the following:

<b>Mark</b>	<b>Goods</b>	<b>Reg. No. Reg. Date</b>	<b>First-Use Date</b>
THRIVE (and Design)	Topical patches featuring vitamin, mineral, plant extract, antioxidant, enzyme, probiotic, and amino acid preparations used for general health and wellness in Class 5.	5772374  06/11/2019	08/2012
THRIVE EXPERIENCE (and Deisgn)	Nutritional supplements, namely, vitamin, mineral, plant extract, antioxidant, enzyme, probiotic, and amino acid preparations and supplements used for general health and wellness in Class 5.  Providing online retail store services using account-based user information in the field of nutritional preparations and supplements; providing an	5174403  04/04/2017	12/2012 for Classes 5 and 44.  10/2013 for Class 35.

Mark	Goods	Reg. No. Reg. Date	First-Use Date
	incentive award program for consumers that provides for discounted pricing and free product return of nutritional preparations and supplements with purchase in Class 35.  A nutritional plan for general health and wellness consisting of consulting advice and recommendations on nutritional supplements and nutritional consulting advice and recommendations on nutritional preparations in Class 44.		
THRIVE BY LE-VEL	Nutritional supplements, namely, vitamin, mineral, plant extract, antioxidant, enzyme, probiotic, and amino acid preparations used for general health and wellness in Class 5.	5169444 03/28/2017	11/2012
RELEASE THE THRIVE	Nutritional supplements, namely, vitamin, mineral, plant extract, antioxidant, enzyme, probiotic, and amino acid preparations used for general health and wellness in Class 5.	5144648 02/21/2017	02/2015

**SALE AND PROMOTION OF LE-VEL'S THRIVE PRODUCTS**

15. Le-Vel's THRIVE products are sold through its online store directly to consumers, who are introduced to the products through Le-Vel's marketing efforts and a vast network of authorized independent promoters and affiliates.

16. Le-Vel's THRIVE products have enjoyed substantial success and have been widely sold and distributed since their introduction in 2012. Le-Vel now has more than eight million independent Brand Promoters and customers around the world, topped \$1 billion in total sales in May 2017, and surpassed \$2 billion in total sales in November 2019.



17. Since 2012, Le-Vel has offered and continues to offer thousands of THRIVE health and wellness educational conventions, seminars, and events nationwide, e.g.:



A promotional poster for the "Baltimore, MD THRIVE AFTER FIVE" event. The poster features a cityscape background with the Baltimore skyline. At the top, it says "Baltimore, MD" in a large, stylized font, with "THRIVE AFTER FIVE" below it. The event date and time are "WEDNESDAY, MAY 22ND FROM 7:30-9PM". The location is "JIMMYS FAMOUS SEAFOOD 6526 HOLABIRD AVE | BALTIMORE, MD 21224". The poster lists five speakers: Samantha Pasley (LV Millionaire), Eryn Young (LV Millionaire), Denise Lawrence, Addy Molony, and Ashley Wilhelm, each with a "200K VIP" badge. A "SPECIAL GUEST Bernard Pierce Super Bowl Champ" is also featured. At the bottom, there are images of Thrive product boxes and a list of benefits: \*Weight Management, \*Digestive &amp; Immune Support, \*Calms General Discomforts, \*Antioxidant Support, \*Mental Clarity and Focus, \*Lean Muscle Support, and \*Joint Support.





**Niota, TN**

**THRIVE LOCAL**

**FRIDAY, JUNE 7<sup>TH</sup> at 7:00 pm**

**ASHLEY & JUSTIN SULLIVAN**  
SPECIAL GUESTS

**JEFF & TABITHA SCOTT**  
HOSTS

**WESLEY & HOLLY AVERETTE**  
GUEST SPEAKERS

**BRANDON & HEATHER FRAZIER**  
GUEST SPEAKERS

**TRISH GOEN**  
GUEST SPEAKER

**The Church Of Niota 2068 Hwy 11 Niota, TN. 37826**



**Rise & Thrive! OPEN LOCAL**

**BRIAN & STACY RAAP**  
HOSTS

**JENNI LANGE**  
HOST

**NATASHA ROBERSON**

**CAROL LAWSON**

**KELLY MILLS**

**SANDY SMALL**

**JOY SWAN**

**TARRI SCHOENBERGER**

**KATRINA HOUTAKKER**

**SAT, FEBRUARY 10<sup>TH</sup> AT 9:00AM**

**CHAMPPS**  
3100 DODGE ST. | DUBUQUE, IA 52001





18. Since 2012, Le-Vel has shared and continues to provide THRIVE health and wellness articles and videos on its website and official blog, e.g.:



## 8 Reasons the THRIVE Experience is Unlike Any Other Vitamin Supplement

HEALTHY LIVING

THE LV LIFE

BY LE-VEL / ON JANUARY 16, 2020 / 0 COMMENTS



19. Le-Vel also maintains an educational/product experience website for its various THRIVE products at <https://www.thrive-reviews.com>.

20. Le-Vel and its founders have a tremendous online following, including over three million Facebook followers. Le-Vel's promotional videos have been viewed on YouTube over nine million times.

21. Le-Vel has long promoted and displayed its THRIVE Marks in a variety of ways, including as a standalone brand, as part of THRIVE-formative terms or phrases, and in connection with other Le-Vel names and marks through Le-Vel's website, social media, and product packaging, e.g.:









Level





22. Le-Vel has spent over \$32 million in advertising, marketing, and promoting the THRIVE Marks in connection with its products through a variety of media, promotional and marketing initiatives, and celebrity endorsements. Some of the celebrity users of Le-Vel's products include: (1) Emmitt Smith, the all-time leading rusher in the history of the National Football League ("NFL"); (2) Andy Roddick, one-time #1 ranked tennis player in the world and a tennis Hall-of-Famer; (3) Dick and Rick Hoyt of Team Hoyt, the father and son team who have participated in over 1,000 races to raise awareness for and instill confidence in the physically challenged (Rick is a spastic quadriplegic with cerebral palsy, and his father, Dick, pushes, pulls, and carries him through races such as the Ironman triathlon); (4) Kirk Hammett, lead guitarist for the band Metallica; (5) Don Mattingly, Major League Baseball Hall-of-Famer; (6) Amy Purdy, *New York Times* best-selling author, runner-up in *Dancing with the Stars*, and medalist in the 2014 Winter Paralympic Games; (7) Olga Tanon, five-time Grammy-winning artist; (8) Brian Westbrook, former All-Pro NFL player; (9) Drake White, country music performing artist; (10) television and movie actor Kevin Sorbo from shows such as *Hercules*;



(11) Missy Robertson from the *Duck Dynasty* series; (12) Bernard Pierce, former All-Pro NFL player; and many others.



23. In addition, Le-Vel and the THRIVE Marks have been featured (1) at Times Square during the New Year’s Eve ball drop and throughout the holiday season, including during the Macy’s Thanksgiving Day Parade; (2) on billboards throughout the United States during national billboard campaigns; (3) in football stadiums across the United States during college and professional football games; (4) in the “Rise and Thrive” marketing campaign, which has been viewed by millions of individuals around the globe; (5) in a nationally distributed magazine, *Thrivin’*, found in thousands of bookstores throughout the U.S.; (6) in hundreds of press releases and blogs circulated throughout the world; and (7) in Facebook and YouTube ads receiving millions of views and interactions.

24. Further, the THRIVE Marks have received notable third-party press, attention, and recognition. In 2016, Le-Vel was featured in *USA Today*, along with Uber, Etsy, and two other companies, as the leaders in the “YouEconomy.” In 2019, Le-Vel was again featured in



*USA Today* as the nutritional movement taking the country by storm. In 2016, Le-Vel received the *Direct Selling News* Bravo Growth Award, which recognizes the largest year-over-year growth *in the world* in direct sales. In 2015, Le-Vel was featured in the *Houston Business Journal* for its substantial and meaningful charitable works and efforts. In 2015 and 2016, Le-Vel was named to the *Direct Selling News* Global 100, an exclusive ranking of the top revenue-generating companies worldwide in the direct selling industry. Le-Vel has also been featured in *Direct Selling News* on multiple occasions and has been the cover story twice. In 2013-2017, Le-Vel was featured in *Success from Home* magazine, the first time that a company has been featured as the exclusive company in full-length *Success from Home* issues four years in a row, e.g.:





25. As a result of extensive use, sales, advertising, promotion, commercial success, and third-party recognition, the THRIVE Marks are well-known and strong, and consumers associate the common, distinctive characteristic of the THRIVE Marks—THRIVE—with Le-Vel.

### **DEFENDANTS AND THEIR WRONGFUL ACTS**

26. On information and belief, Defendant R & D Global was founded by Dan Putnam (“D. Putnam”) and his father Richard Putman (“R. Putnam”) in or around October 2014. The company is a network marketing health and wellness company, much like Le-Vel.

27. On information and belief, prior to founding R & D Global, D. Putnam founded a network marketing health and wellness company called EPX Body, LLC. On further information and belief, EPX Body introduced a THRIVE-branded energy drink *after* Le-Vel released its THRIVE supplements. The EPX Body THRIVE-branded energy drink remained on the market for a short period until around September or October 2014, when the product was discontinued.

28. On information and belief, D. Putnam and R. Putnam founded the health and wellness network marketing company R & D Global in or around October 2014. On further information and belief, R & D Global began offering dietary and nutritional supplements and did so under numerous “doing business as” pseudonyms, including O2 Worldwide, Bepic, and Lurra Life.

29. In or around February 2016, R & D Global began operating in whole or part under the name O2 Worldwide.

30. After founding R & D Global and launching the pseudonym O2 Worldwide, D. Putnam joined Le-Vel as an independent brand promoter in May 2016. D. Putnam joined Le-Vel as a promoter on an individual basis, as well as under the name “R & D Global.” R. Putnam also joined Le-Vel as an independent brand promoter around the same time.

31. As Le-Vel brand promoters, D. Putnam, R. Putnam, and R & D Global had direct access to Le-Vel’s proprietary software and back-office systems, branding strategies (including relating to the THRIVE Marks), marketing campaigns and strategies, customer support plans, and other confidential information.

32. D. Putnam and R. Putnam used their Le-Vel brand promoter accounts to purchase Le-Vel’s THRIVE products. D. Putnam continued to access his Le-Vel brand promoter account,

including purchasing Le-Vel's THRIVE products, through January 2019. Le-Vel terminated D. Putnam's brand promoter account on April 13, 2020. R. Putnam continued to access his Le-Vel brand promoter account, including purchasing Le-Vel's THRIVE products, through August 2016. Le-Vel terminated R. Putnam's brand promoter account on April 13, 2020.

33. D. Putnam also used the "R & D Global" Le-Vel brand promoter account to purchase Le-Vel's THRIVE products. R & D Global's last purchase under that account for Le-Vel's THRIVE products shipped on June 25, 2017.

34. Less than 6 months later, in or around December 2017, while D. Putnam, R. Putnam, and R & D Global continued to have access to Le-Vel's confidential information as Le-Vel brand promoters, O2 Worldwide released a dietary supplement under the name THRIVE, as depicted below:



35. O2 Worldwide promoted its THRIVE supplement through its websites <https://o2ww.com> and <https://letusclose.com>, and sold that supplement through its network of promoters and affiliates. O2 Worldwide promoted its THRIVE supplement using various THRIVE-formative taglines, a representative example of which can be seen below:





36. O2 Worldwide continued to promote and sell that THRIVE product until around January 2019, when R & D Global stopped selling the THRIVE product under the O2 Worldwide pseudonym, materially changed the design and appearance of the THRIVE supplement, and launched a THRIVE supplement under the pseudonym Lurra Life, as shown below :



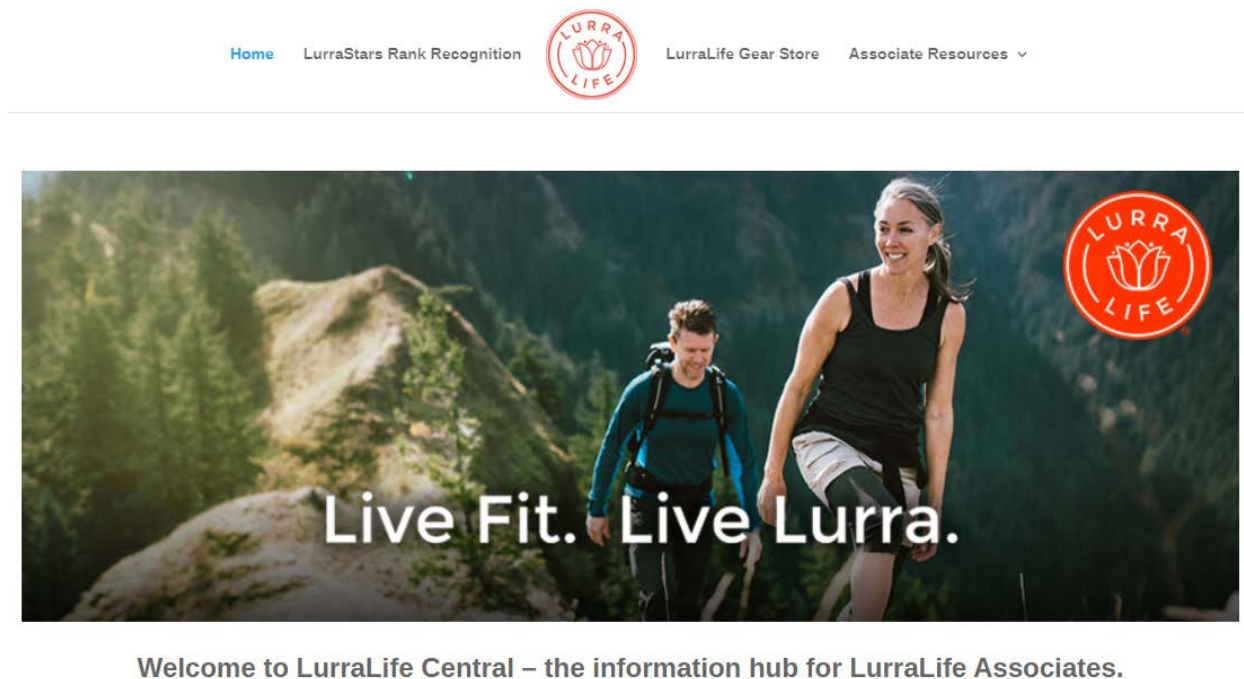
Copyright © 2020 R&D Global DBA LurraLife. All International Rights Reserved.

37. In January 2019, D. Putnam formed a Utah limited liability company named Lurra Life, LLC. Because D. Putnam is the founder of both Defendant R & D Global, LLC and Defendant Lurra Life, LLC, upon information and belief, both Defendants exercise control over the promotion, offer for sale, and sale of the Lurra Life THRIVE dietary supplement.

38. Defendants offer the THRIVE supplement through the Lurra Life website, <https://www.lurralife.com/index.html>, and through a network of affiliates, <http://lurralifecentral.com/>, as shown below:

The screenshot displays the Lurra Life website's product offerings. At the top, there is a navigation bar with links: ALL PRODUCTS, O2 DROPS, TEA AND COFFEE, and THRIVE. Below this, six product bundles are presented in a grid format, each with an image of the product, a description, and a price.

Product Bundle	Price
Thrive 2 Packs 15 Servings each	\$59.95
Car Bonus Pack: Thrive 4 Packs 15 Servings each	\$99.90
O2 Drops Single Bottle	\$44.95
Car Bonus Pack: O2 2oz: Buy 2 Get 1 Free	\$89.90
6 Month Supply of Thrive	\$260.00
Year Supply of Thrive	\$400.00



39. Like Le-Vel, Defendants promote the THRIVE dietary supplement through social media, including Facebook (<https://www.facebook.com/lurralife/>), Instagram (<https://www.instagram.com/lurralife/>), and YouTube <https://www.youtube.com/channel/UCISlgg0OtsbveFGhO42MMRQ/featured>).

40. D. Putnam has also partnered with individuals having intimate knowledge of Le-Vel and its founders. One such individual is Eric Caprarese, with whom D. Putnam partnered with in or around early/mid-2017, when Mr. Caprarese became the CEO of Bepic—yet another R & D Global pseudonym. Prior to joining D. Putnam and R & D Global, Mr. Caprarese worked with Paul Gravette (one of Le-Vel's officers and founders) at another network marketing company called Drink A.C.T., which was owned by Mr. Gravette and focused on energy drinks. Prior to Mr. Gravette selling Drink A.C.T. and founding Le-Vel, Eric Caprarese knew of Mr. Gravette's plans about Le-Vel and attempted to become involved. Mr. Caprarese was not, however, invited to do so by Le-Vel and/or any of its founders.

41. Given the strong association of THRIVE with Le-Vel, consumers are likely to confuse Defendants' THRIVE-branded supplement and/or commercial activities with Le-Vel's THRIVE and THRIVE-formative branded supplements, THRIVE Marks (individually and collectively, as a family), and/or commercial activities.

### **INJURY TO THE PUBLIC AND LE-VEL**

42. Defendants' unauthorized past and present use of the product name THRIVE is likely to cause confusion, mistake, and deception as to the source or origin of Defendants' products, and is likely to falsely suggest a sponsorship, connection, or association between Defendants, their products, and/or their commercial activities with Le-Vel and its THRIVE Marks (individually and collectively, as a family) and commercial activities.

43. Defendants' unauthorized past and present use of THRIVE has damaged and irreparably injured Le-Vel, and, if permitted to continue, will further damage and irreparably injure Le-Vel, its reputation and goodwill, the THRIVE Marks, and the public's interest in being free from confusion.

44. Defendant R & D Global and its principals D. Putnam and R. Putnam were all Le-Vel brand promoters and acutely aware of Le-Vel's THRIVE Marks and business model. As a result, Defendants have acted knowingly, willfully, in reckless disregard of Le-Vel's prior rights, and in bad faith.

### **FIRST CLAIM FOR RELIEF**

#### **Trademark Infringement Under Section 32(1) of the Lanham Act, 15 U.S.C. § 1114(1)**

45. Le-Vel repeats and realleges each and every allegation set forth above.

46. The acts of Defendants constitute infringement of Le-Vel's registered THRIVE Marks in violation of 15 U.S.C. § 1114.



47. Without Le-Vel's consent, Defendants have used and continue to use in commerce reproductions, copies, and colorable imitations of Le-Vel's registered THRIVE Marks in connection with the offering, distribution, and advertising of supplements and related products through common channels of trade, which is likely to cause confusion, cause mistake, or deceive, in violation of Section 32(1) of the Lanham Act, 15 U.S.C. § 1114(1).

48. Defendants' acts of trademark infringement are knowing, intentional, and willful in violation of 15 U.S.C. § 1114.

49. As a result of Defendants' acts of trademark infringement, Le-Vel is suffering irreparable harm, for which it has no adequate legal remedy.

50. Unless and until Defendants are enjoined by this Court, Defendants will continue to commit acts of trademark infringement and cause likely consumer confusion and irreparable harm to Le-Vel.

51. Le-Vel is entitled to recover Defendants' profits, all damages that Le-Vel has sustained from Defendants' infringement, prejudgment interest, and the costs of the action pursuant to 15 U.S.C. § 1117.

52. Because Defendants' conduct is willful, Plaintiff is also entitled to recover treble damages and reasonable attorneys' fees pursuant to 15 U.S.C. § 1117.

## **SECOND CLAIM FOR RELIEF**

### **Trademark Infringement, False Designation of Origin, Passing Off, and Unfair Competition Under Section 43(a)(1)(A) of the Lanham Act, 15 U.S.C. § 1125(a)(1)(A)**

53. Le-Vel repeats and realleges each and every allegation set forth above.

54. Defendants' past and present use of THRIVE, as described above, is likely to cause confusion, cause mistake, or deceive as to the origin, sponsorship, or approval of

Defendants, their products, and/or their commercial activities by or with Le-Vel and its THRIVE Marks (individually and collectively, as a family), and thus constitutes trademark infringement, false designation of origin, passing off, and unfair competition in violation of Section 43(a) of the Lanham Act, 15 U.S.C. § 1125(a).

55. Defendants' unauthorized use of THRIVE is knowing, intentional, and willful in violation of 15 U.S.C. § 1125.

56. As a result of Defendants' acts, Le-Vel is suffering irreparable harm, for which it has no adequate legal remedy.

57. Unless and until Defendants are enjoined by this Court, Defendants will continue to commit infringing acts, and will continue to deceive the public and cause irreparable harm to Le-Vel.

58. Le-Vel is entitled to recover Defendants' profits, all damages that Le-Vel has sustained from Defendants' infringing acts, prejudgment interest, and the costs of the action pursuant to 15 U.S.C. § 1117.

59. Because Defendants' conduct is willful, Plaintiff is also entitled to recover treble damages and reasonable attorneys' fees pursuant to 15 U.S.C. § 1117.

### **THIRD CLAIM FOR RELIEF**

#### **Common-Law Trademark Infringement, Passing Off, and Unfair Competition**

60. Le-Vel repeats and realleges each and every allegation set forth above.

61. The activities described above constitute common-law trademark infringement and misappropriation of the goodwill associated with Le-Vel's THRIVE Marks (individually and collectively, as a family) and constitute passing off, trademark infringement, and unfair competition in violation of Texas common law.

62. By making unauthorized past and present use of THRIVE, Defendants are committing trademark infringement in violation of Texas common law and other applicable common law.

63. Defendants' unauthorized past and present use of THRIVE is knowing, intentional, and willful.

64. As a result of Defendants' acts of trademark infringement, Le-Vel is suffering irreparable harm, for which it has no adequate legal remedy.

65. Unless and until Defendants are enjoined by this Court, Defendants will continue to commit acts of trademark infringement, and will continue to cause likely consumer confusion and irreparable harm to Le-Vel.

66. Le-Vel is entitled to recover Defendants' profits, all damages that Le-Vel has sustained from Defendants' infringement and unfair competition, and the costs of the action, including attorneys' fees.

#### **DEMAND FOR JURY TRIAL**

Pursuant to Fed. R. Civ. P. 38, Le-Vel respectfully demands a trial by jury on all issues properly triable before a jury in this action.

#### **PRAYER FOR RELIEF**

WHEREFORE, Le-Vel requests that this Court enter judgment in its favor on each and every claim for relief set forth above and award it relief including, but not limited to, the following:

A. A finding that Defendants (i) have infringed Le-Vel's registered trademark in violation of 15 U.S.C. § 1114; (ii) have violated Section 43(a) of the Lanham Act (15 U.S.C.

§ 1125); and (iii) have infringed Le-Vel's trademarks under the common law of the State of Texas;

B. An Order declaring that Defendants' past and present uses of THRIVE for supplements infringe Le-Vel's rights in its THRIVE Marks (individually and collectively, as a family) and constitute trademark infringement, unfair competition, and passing off under federal and/or state law, as detailed above.

C. An Order enjoining Defendants and its employees, agents, partners, officers, directors, owners, shareholders, principals, subsidiaries, related companies, affiliates, distributors, dealers, and all persons in active concert or participation with any of them:

1. From using, registering, or seeking to use or register THRIVE and/or any other marks, logos, or designs that are confusingly or substantially similar to Le-Vel's THRIVE Marks for supplements and related products and services; and
2. From representing by any means whatsoever, directly or indirectly, that any products offered by Defendants, or any activities undertaken by Defendants, are associated or connected in any way with Le-Vel or sponsored or authorized by or affiliated with Le-Vel.

D. An Order directing Defendants to, within thirty (30) days after the entry of the injunction, file with this Court and serve on Le-Vel's attorneys a report in writing and under oath setting forth in detail the manner and form in which Defendants have complied with the injunction.

E. An Order directing Defendants to immediately destroy all products, advertisements, promotional materials, stationery, forms, and/or any other materials and things



that contain or bear THRIVE and/or any other marks, logos, or designs that are confusingly or substantially similar to Le-Vel's THRIVE Marks for supplements and related products and services.

F. An Order requiring Defendants to account for and pay to Le-Vel any and all profits arising from the foregoing acts in accordance with 15 U.S.C. § 1117 and other applicable laws.

G. An Order requiring Defendants to pay Le-Vel damages in an amount as yet undetermined caused by the foregoing acts and trebling such damages in accordance with 15 U.S.C. § 1117 and other applicable laws.

H. An Order requiring Defendants to pay Le-Vel punitive, exemplary, and/or statutory damages as allowed by law in an amount to be determined due to the foregoing willful acts of Defendants.

I. An Order requiring Defendants to pay Le-Vel its costs and attorneys' fees in this action pursuant to 15 U.S.C. § 1117 and other applicable laws.

J. An Order awarding Le-Vel pre-judgment and post-judgment interest on any monetary award made part of the judgment against Defendants.

K. Other relief as the Court may deem just and appropriate.

Dated: May 21, 2020

Respectfully submitted,

Kevin T. Schutte

Kevin T. Schutte

Texas Bar No. 24033050

kschutte@sbbolaw.com

William P. Dunne III

Texas Bar No. 24097631

wdunne@sbbolaw.com

SHAPIRO BIEGING BARBER OTTESON LLP

5430 Lyndon B Johnson Freeway, Suite 1540

Dallas, Texas 75240

Telephone: (214) 377-0149

Mark Sommers (*pro hac vice* to be filed)

mark.sommers@finnegan.com

Patrick J. Rodgers (*pro hac vice* to be filed)

patrick.rodgers@finnegan.com

FINNEGAN, HENDERSON, FARABOW,

GARRETT & DUNNER, LLP

901 New York Avenue NW

Washington, DC 20001

Telephone: (202) 408-4000

Facsimile: (202) 408-4400

Morgan Smith (*pro hac vice* to be filed)

morgan.smith@finnegan.com

FINNEGAN, HENDERSON, FARABOW,

GARRETT & DUNNER, LLP

3300 Hillview Avenue

Palo Alto, CA 94304

Telephone: (650) 849-6600

Facsimile: (650) 849-6666

Attorneys for Le-Vel Brands, LLC